



## Missouri Department of Natural Resources Water Pollution Control Program

### TMDL PAC Meeting Minutes July 15, 2003

\* Sharon Clifford's power point presentation used at this meeting is attached.

34 attendees present. Participants introduced themselves to the group. Bryan Fawks, Deputy Director of the Water Protection and Soil Conservation Division (WPSCD) was introduced. Bryan replaced Michael Warrick, who is now serving as department legal and is located in the Director's Office.

Update on TMDL Issues and 2003 303(d) list.

Pat Costello gave update on the 303(d) list comment period and stated it has been extended to August 15, 2003. When can we anticipate actually having a final list? EPA has 30 days to respond after the close of public comment, and it will definitely be finalized before the end of the year. Mr. Costello has accepted a new position within Region 7, but he plans to complete this process before he moves on. Jeannette Schafer has also accepted a new position within Region 7 in the Watershed Branch. Mr. Costello was Missouri's Region 7 Standards and 303(d) Coordinator. Jeannette Schafer served as the Region 7 TMDL Coordinator for Iowa and Missouri.

Sharon Clifford summarized the major 303(d) list issues based on information from stakeholders and questions asked by EPA Region 7:

- The decision to list or delist specific waterbodies.
- Sediment listings on 303(d) list. The minutes from the last meeting include many questions regarding sediment listings.
- New data that could effect delistings. Missouri is again proposing delisting some waters that EPA re-listed.
- EPA will only consider waters initially proposed for delisting and waters upon which EPA took action different from the Clean Water Commission recommendation. Neither the state nor stakeholders can propose new waters for listing or delisting during this comment process. Actions on waters not included in the original 2002 303(d) list will have to wait until the next listing process for a change in their listing status.

Pat Costello further explained. They are seeking comments from the public specifically addressing the changes that EPA made to the 2002 list the state submitted to EPA last August. Any changes made by the state to the 1998 list that EPA disapproved. EPA added a number of waterbodies and proposed to add some waters back onto the list that the state had requested be delisted. Also some pollutants that had been removed by the state and EPA added back to the list are also subject to public comment. Everything else on the list has essentially been approved. The delistings and the new listings proposed by the state that EPA approved are not open for public comment. Anything that EPA has changed or added is subject to this notice.

What would EPA like to see in comments? The Clean Water Act says any readily available information in the form of data, reports or studies that have been done should be considered. That information gives EPA some sense of whether they need to revise a decision to add certain waters back, or in some cases, provide further information that underscores and supports a particular decision. So far, approximately 100 comments have been received. Most focus on few waterbodies.

- There is a lot of interest in Hinkson Creek in Columbia. Comments have been received both supporting and not supporting the listing.
- The listing of Dardenne Creek, St. Charles County, has many comments and most support the listing.
- Comments have been received about including Kit Creek in St. Louis on the 303(d) list.
- Stinson Creek near Fulton.
- Detailed comments were provided by the City of Independence and the Blue Valley Sewer District in the Kansas City metropolitan area. These comments were in regard to the listing of 2 segments of the Missouri River for mercury impairment as well as chlordane and PCBs.
- Comments were received supporting the listing of the Mississippi River below Joachim Creek for lead.
- Most comments received on the Jack's Fork were in favor of the listing, but some were against it.

The comments received to date are not difficult to read, respond to and summarize. EPA will consider all comments. DNR and the Clean Water Commission have not formally submitted comments yet. Their comments will be far more detailed and take more time and energy to go through.

Any comments from the agriculture community? EPA indicated they had not yet received comments from agriculture. But there have been letters from consulting firms that could be representing those interests. Pat would like people to look ahead to the 2004 listing process. New EPA listing guidance for the 2004 list should be out soon. If people are interested in certain waters being added or delisted, they still have the 2004 listing cycle coming up. When the state puts the listing methodology for 2004 out on public comment, it is important to comment.

The Clean Water Commission is requiring DNR to do rulemaking on the listing methodology, even though the TMDL legislation does not require the department to engage in that rulemaking. The listing methodology is where most states have focused their legislation. The legislation only specifies rulemaking on the list itself. The 2004 303(d) list will not be available before 2005. The rulemaking on the methodology has been shared with the sister agencies, and it's now within the Dept. of Agriculture and the Dept. of Conservation. The new EPA guidance on assessment and listing methodology was used to develop the rule for Missouri's assessment and listing process. This guidance from EPA includes the five categories that were almost used by Missouri for the 2002 303(d) list. EPA wants states to use the new methodology and all states are moving that direction. The guidance may become federal rule. The department is making sure the state rule agrees with the guidance. The department doesn't want a rule that is in conflict with a federal rule, should that occur.

Is none of the data that was available for the 303(d) list and wasn't submitted to EPA going to be used to support delistings? Yes, it will be used. DNR delisted certain waters and EPA re-listed

them. If comments are provided to EPA with additional data on the waterbodies that were impaired, EPA will consider the information. Power point presentation by Sharon Clifford is attached.

Gail Wilson's presentation on TMDLs she is drafting:

**Davis Creek (1)**

- This TMDL is being revised
- A nonpoint source component was found to be contributing to the impairment
- EPA is scrutinizing the wording of the document
- DNR will be finalizing this week

**Kelley Branch/Rocky Fork (2)**

- This TMDL has been ongoing for 2 ½ years
- It was first a sediment TMDL and then was changed to a habitat impairment
- Endpoint and monitoring methods have been elusive
- Have had trouble getting information from the state park
- Difficulty in satisfying EPA with some of the wording
- Scheduled for submission to EPA end of July

**Tebo Creeks (5)**

(East Fk., West Fk., Middle Fk., Trib. To Middle Fk., Trib. To Barkers)

- Abandoned Mine Land - pH & sulfate problems resolved except for occasional seepage
- Over \$4.6 million spent in the area over the past 30 years
- Reclamation has been successful
- Scheduled for submission to EPA in August

**Cameron Lakes #1 and #2 (2)** - #3 being delisted

- Impaired by atrazine
- Information gathering has been going well
- Local watershed effort has resulted in success
- Scheduled for submission to EPA end of August

Are Lakes Volunteer Monitoring Program participants ever notified of TMDLs during the Public Notice period? Not sure. Something that could be pursued? Stream Team program participants who live in the watershed are always notified.

Anne Peery's presentation on TMDLs she is drafting:

**Shoal Creek (1)**

- On the 303(d) list for fecal coliform
- Have had two public meetings in Monett on May 22 and June 26th
- A third meeting is planned for Aug 7 or 14
- The meetings have been lively with plenty of comments and questions from attendees
- The proposed target is the Water Quality Standard of "shall not exceed 200 col/100mL during the recreation season"
- FAPRI did the modeling and will remain involved with public participation

### **Fellows and McDaniel Lakes (2)**

- Taste and odor problems
- Listed for violating general criteria
- There are no numeric standards for taste and odor
- Of the 5 possibilities for an endpoint (none of which has high correlation), the department picked 10 ug/mL chlor-a as the endpoint
- Working with Springfield Utilities on monitoring and implementation plans
- Public meeting scheduled on July 24 in Springfield

### **McKenzie Creek (1)**

- On the list for low pH with Gads Hill Quarry as the source
- Problem is, there is low pH *upstream* of the quarry
- Seems to be the result of the existing geology (the bedrock is granite, not limestone, and hence does not buffer the water going into the stream)
- Looking for other sources, such as sulfide minerals in the bedrock or organic compounds in the soil
- McKenzie is scheduled for Public Notice on October 10, 2003

The TMDL brochure is now available. The brochure's name is *Watershed Protection* and the concepts presented are easily understood. Copies are available to anyone who wants them. Also, we now have a 15-minute version of the TMDL video. DNR is announcing a new feature on the TMDL website. It is called "TMDLs Under Development." All the TMDL efforts this year are on that site with their status (monitoring, being modeled or ongoing public meetings being held, etc.). Also, where applicable, the meeting agendas and presentations are posted. Hope to get 2004 TMDLs on there soon. Coming soon (in a week or two), the new watershed page should come online. There is an education page with a link to the state map of counties overlain with HUC 8 watersheds.

To find the new webpage:

Go to WPCP homepage and find "TMDLs Under Development" under the Spotlight heading, or go to the TMDL page and find it as "TMDLs in Progress." The URL is [www.dnr.mo.gov/wpscd/wpcp/tmdl/wpc-tmdl-progress.htm](http://www.dnr.mo.gov/wpscd/wpcp/tmdl/wpc-tmdl-progress.htm).

Twenty-one TMDLs need to be produced during 2004 to meet the consent decree schedule. Half of the waterbodies scheduled for that year are being delisted and will count toward the 2003 numbers, so that results in needing to adjust the schedule for next year. Most of the TMDLs that will be completed next year are related to metals impairments, either from smelters, tailings piles, or abandoned mine land sites.

Questions:

What are the department's plans on how to proceed with changes to the Water Quality Standards? The recently filed lawsuit will probably influence how the department proceeds in the future. The lawsuit is against EPA because the department has not acted on the disapproved standards. Designating all waters for whole body contact is a major issue with stakeholders and sister agencies. The department had chosen not to pursue this rule change until after the bacteria

standard had been changed from fecal coliform to e-coli. Not sure if this will continue to be the course of action due to the filing of the lawsuit. The recent trend regarding legal actions is getting away from TMDL lawsuits and changing to lawsuits regarding water quality standards.

Jeannette Schafer, Region 7, explained what happened with Kansas' standards lawsuit. An agreement had been reached with Kansas to put off the promulgation of whole body contact designations until they had the opportunity to do a Use Attainability Analysis (UAA) before assigning that designated use. This was supposed to be accomplished over a period of 6 years. The court ruled they had 90 days to make the decision and proceed with promulgating the rule. Becky Shannon has estimated it will take at least 14 months to write and promulgate rule changes related to the indicator used for bacteria or from fecal coliform to e-coli.

Is the department going to start having meetings again related to standards changes? TMDL staff are not involved with this issue and that question should be referred to Becky Shannon.

What is the possibility that EPA will start establishing state standards if Missouri doesn't proceed? EPA agreed to give the department 3 years to change the disapproved standards. They can choose to promulgate if we don't live up to our agreements. It is never DNR's goal to turn decision making over to EPA. But it becomes difficult to meet deadlines considering the budget cuts, loss of staff, and vacant management positions not being filled.

There is a conference in early August in Chicago and pollutant trading is the main topic. Two people from DNR will be attending (Peter Goode and Richard Laux). Stakeholder members attending include Tom Wallace and Robert Brundage.

Meeting adjourned.